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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/836,397
Filing Date: April 17, 2001
Appellant(s): CHAN, HARK C.

Hark C. Chan
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed Sept. 9, 2010 appealing from the Office action mailed April 28, 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 2 – 11 are pending.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being

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maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

Weiss et al U.S. Patent No. 4,856,062

Chen U.S. Patent Pub. No. 2004/0047358

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 – 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss et al. U.S. Patent No. 4,856,062 (referred to hereafter as Weiss) in view of Chen et al. U. S. Patent Pub. No. 2004/0047358 (referred to hereafter as Chen).

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As to claim 2, Weiss teaches a system for communication through a wide area network, said system comprising:

an apparatus comprising:

at least one member of said apparatus and said at least one portable unit generates non-deterministic digital contents, said one member uses its wireless local interface to deliver at least one of said digital contents to another member of said apparatus and said at least one portable unit, said digital content being used by said apparatus and said at least one portable unit as identification in communication via said wide area network. (see abstract :: col.1 line 45 – col. 2 line 21:: col.6 lines 17 - 37, and col.8 lines 10 – 32, Weiss discloses a verification process between a portable device and a remote host where a user inputs a fixed code along with a non predicted code that is generated at a regular interval of time, without user intervention, in order to gain access and establish communication with a host of a network).

Weiss teaches the invention as mentioned above, Weiss does not explicitly teach the “ a first wide area interface” and “ a first local interface”. However Chen teaches a home gateway system having multi – function wireless and wired networking, wireless and wired telephony, broadband, gateway device that provides automatic wireless and wired broadband initialization and bridging functionality (see col.2, lines 57 – 62).

Moreover, Chen teaches wireless devices are connected to a gateway using local and wide area interface (see paragraphs 0067, 0068, 0076 and fig.5).

It would have been obvious to one of the ordinary skill in the art, at the time of the invention was made, to incorporate the local and wide area interface as disclosed by

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Chen in Weiss's invention to provide users with data connection capabilities to a computer or host system regardless of geographical locations.

As to claim 3, Weiss teaches the system wherein said one member comprises a random number generator used for generating said digital contents. (see col. 3 lines 10 – 26 and col.4 lines 12 - 22).

As to claim 4, Weiss teaches the wherein said apparatus and said at least one portable unit each comprises a memory for storing said at least one non-deterministic digital content. (see col. 1, line 61 – col. 2 line 21).

As to claim 5, Weiss teaches the system wherein each of said wireless local interfaces comprises a radio frequency interface. (see col. 8 lines 22 – 34).

As to claim 6, Weiss teaches the system wherein said at least one portable unit is a cellular phone (see col. 8 lines 22 – 34).

As to claim 7, Weiss teaches the system wherein said at least one portable unit is a personal digital assist device (see col. 8 lines 22 – 34).

As to claim 8, Weiss teaches the system wherein said at least one digital content comprises an algorithm (see abstract).

As to claim 9, Weiss teaches the system wherein said at least one digital content comprises a digital code (see col.1 lines 13 - 35).

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As to claim 10, Weiss teaches the system wherein said wireless local interface of said apparatus and said at least one portable unit performs authentication in delivering said at least one digital content. (see col.2 lines 60 - 63).

As to claim 11, Weiss teaches the system wherein said one member can detect a presence of said another member and delivers said at least one digital content to said another member automatically without user intervention (see col.6 lines 19 – 49, Weiss discloses establishing communication between a portable computer and a host computer).

As to claim 12, Weiss teaches a method for an apparatus and a portable unit to communicate through a wide area network, comprising:

generating non - deterministic digital contents by one of the apparatus and the portable unit at multiple times without user action at these times (see col. 8 lines 16 - 34);

while the apparatus and portable unit are delivering at least one of the digital contents by the one of the apparatus and the portable unit to another of the apparatus and the portable (see col. 8 lines 22 – 34); and

using the at least one of the digital contents as identification in communication between the apparatus and the portable unit (see col.2 line 45 – col. 8 line 67).

Weiss does not explicitly teach the “ within a domain” and “ wide area interface”. However Chen teaches a home gateway system having multi – function wireless and wired networking, wireless and wired telephony, broadband, gateway device that

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provides automatic wireless and wired broadband initialization and bridging functionality (see col.2, lines 57 – 62).

Moreover, Chen teaches wireless devices are connected to a gateway using local and wide area interface (see paragraphs 0067, 0068, 0076 and fig.5).

It would have been obvious to one of the ordinary skill in the art, at the time of the invention was made, to incorporate the local and wide area interface as disclosed by Chen in Weiss's invention to provide users with data connection capabilities to a computer or host system regardless of geographical locations.

As to claim 13, Weiss teaches the method of claim 12 wherein the one of the apparatus and the portable unit comprises a random number generator for generating the digital contents (see col. 3 lines 10 – 26 and col.4 lines 12 - 22).

As to claim 14, Weiss teaches the method of claim 12 wherein the delivering is conducted using radio frequency signals (see col. 1, line 61 – col. 2 line 21).

As to claim 15, Weiss teaches the method of claim 12 wherein the portable unit is a cellular phone (see col. 8 lines 22 – 34).

As to claim 16, Weiss teaches the method of claim 12 wherein the portable unit is a personal digital assist device (see col. 8 lines 22 – 34).

As to claim 17, Weiss teaches the method of claim 12 wherein the at least one digital content comprises an algorithm (see abstract).

As to claim 18, Weiss teaches the method of claim 12 wherein the at least one digital content comprises a digital code (see col.1 lines 13 - 35).

As to claim 19, Weiss teaches the method of claim 12 wherein the delivering comprises authenticating at least one of the apparatus and the portable unit (see col.2 lines 60 - 63).

As to claim 20, Weiss teaches the method of claim 12 wherein the one of the apparatus and portable unit can detect a presence of the another of the apparatus and the portable unit and deliver the at least one digital content to the another automatically without user intervention (see col.6 lines 19 – 49).

(10) Response to Arguments

The examiner summarizes the various points raised by appellant and addresses replies individually.

As per appellant, the examiner has not shown that Chen is a proper prior art (see brief page 5, argument A).

In response to A, examiner points out that it is not adequate to allege that that prior art does not disclose or teach certain feature without specifically point out what that feature is. However, Chen was relied upon to disclose a local and wide area interfaces, these two features are clearly disclosed by Chen's provisional patent application no. 60/179,042 filed on January 31, 2000 which predates the instant application. Throughout the application (see for example, figs. 3 and 4), the Provisional

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application discloses a cordless phone that is located inside a house (local interface) and a cellular phone/PDA (wide interface) which are used for connecting to a network. Furthermore, Chen discloses a removable display unit which interfaces with a home gateway through Infrared communication (local interface) and a Radio Frequency communication (wide area interface) in claim 13 of the provisional application. Therefore Chen clearly discloses the local and wide area interfaces.

As per appellant, there is no teaching or suggestion in the cited references that non - deterministic digital content is delivered from one device to another device (see brief page 5, argument B).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., digital content delivered from one device to another device) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Despite the fact that the claims do not recite any devices, Weiss discloses that an authorized user of a computer is typically required to personally sense that the first non- predictable code is completed, and then communicate the first non predictable code to the means for comparing (see col.6, lines 19 – 37).

As per appellant, there is no teaching or suggestion in the cited references that non – deterministic digital content is used as identification in communication (see brief page 6, argument C).

In response to C, Weiss discloses that a non- predictable code, which is generated multiple times without any action by the user, is used for verification and identification in order to gain access to a second system (see col.8, lines 22 – 34 and col.3, lines 27 – 44). It is noted that this system is implemented by the USPTO where an examiner inputs a non deterministic number or code that is generated by an FOB device, along with a user name and password for authentication and access to a USPTO host using a laptop while being present on USPTO campus, using a local interface. Furthermore, the examiner can gain access using the FOB device from his or her residence utilizing wide area network connectivity.

As per appellant, the applied arts do not teach the use of an algorithm as a digital content (see Brief page 7, argument D).

In response to D, Weiss's abstract discloses an algorithm as digital content because Weiss discloses a processor having an algorithmic preprogram therein and means for storing the static variable which makes the algorithm a digital content , the content cannot be program unless it is digital.

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For the reasons stated above, the rejection of the claimed limitations should be maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Sargon N Nano/

Examiner, Art Unit 2447

Conferees:

/George C Neurauter, Jr./

Primary Examiner, Art Unit 2447

/JOON H. HWANG/

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